

ORDINANCE NO. 2014-5

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING SECTION 4-32 “PROHIBITED WATER ACTIVITY” CREATING A MOTORIZED VESSEL EXCLUSION ZONE WHICH LIMITS THE MASHTA FLATS AREA, AS FURTHER DESCRIBED ON EXHIBIT “A,” WITHIN THE VILLAGE’S MUNICIPAL BOUNDARIES TO NON-MOTORIZED VESSELS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Mashta Flats is a multi-acre sandbar in the shallow waters of Biscayne Bay located off the Village of Key Biscayne (the “Village”), which is often frequented by boaters as a party destination on the weekends and holidays; and

WHEREAS, over the last couple of years, there has been 3 deaths, two life changing permanently disabling injuries, 15 reported boating accidents totally over \$200,000 in damage, and 156 citations at the Mashta Flats; and

WHEREAS, such recent accident reports and uniform boating citations have clearly demonstrated that there is a significant threat to boating safety and the safety of the public at the Mashta Flats; and

WHEREAS, the Village, pursuant to Section 327.46, F.S., has the authority to adopt a motorized vessel exclusion zone within the Village, which limits such areas to vessels under oars or under sail; and

WHEREAS, in order to prevent future accidents and injuries from occurring at the Mashta Flats and to protect the safety of the public, the Village Council desires to create a motorized vessel exclusion zone, which limits the Mashta Flats area, as further described on Exhibit “A,” within the Village’s municipal boundaries to vessels under oars or under sail; and

WHEREAS, the Village Council hereby finds and declares that adoption of this Ordinance is necessary, appropriate, and advances the public interest.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAIYNE, FLORIDA, AS FOLLOWS:

Section 1. The preceding “Whereas” clauses are ratified and incorporated as the legislative intent of this Ordinance.

Section 2. Section 4-32 of the Village Code Amended. The Village Council hereby amends Section 4-32 “Prohibited Water Activity” as follows:

Sec. 4-32. - Prohibited water activity.

- (1) No owner, operator or Person in command of any Vessel shall permit or operate a Vessel within the area of the Atlantic Ocean, 300 feet east of the Beach from the southern boundary of Crandon Park to the northern boundary of Bill Baggs, Cape Florida State Park, except as authorized by the Village Council.

- ~~(3)~~ No owner, operator or Person in command of any motorized Vessel shall permit or operate such Vessel within the Mashta Flats area within the Village’s municipal boundaries as shown on the Mashta Flats Map below. For purposes of this section, a motorized Vessel shall mean all Vessels equipped with any mechanical means of propulsion regardless if the mechanical means of propulsion are in use. Vessels whose method of propulsion is solely by oar or sail are permissible.

[add map]

- ~~(43)~~ Vessels used solely for a safety/emergency/sea rescue or for ensuring compliance with local, state, or federal law are excluded from the provisions of this section.

Section 3. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent

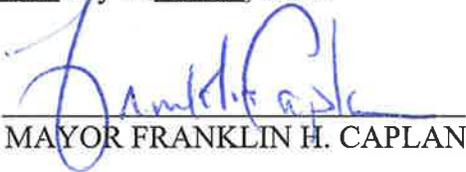
that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. Conflicts. All ordinances or parts of ordinances, resolution or parts of resolutions, in conflict herewith, are repealed to the extent of such conflict.

Section 5. Effective Date. This Ordinance shall become effective immediately upon adoption on second reading. However, pursuant to Section 327.46, Florida Statutes, this Ordinance shall not take effect until the Florida Fish and Wildlife Conservation Commission has reviewed the Ordinance and determined by substantial competent evidence that the Ordinance is necessary to protect public safety.

PASSED AND ADOPTED on first reading this 27th day of May, 2014.

PASSED AND ADOPTED on second reading this 17th day of June, 2014.


MAYOR FRANKLIN H. CAPLAN

ATTEST:



CONCHITA H. ALVAREZ, MMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:



VILLAGE ATTORNEY





HADONNE

Land Surveyors and Mappers
3D Mappers
GPS / GIS Services
Subsurface Utility Surveyors

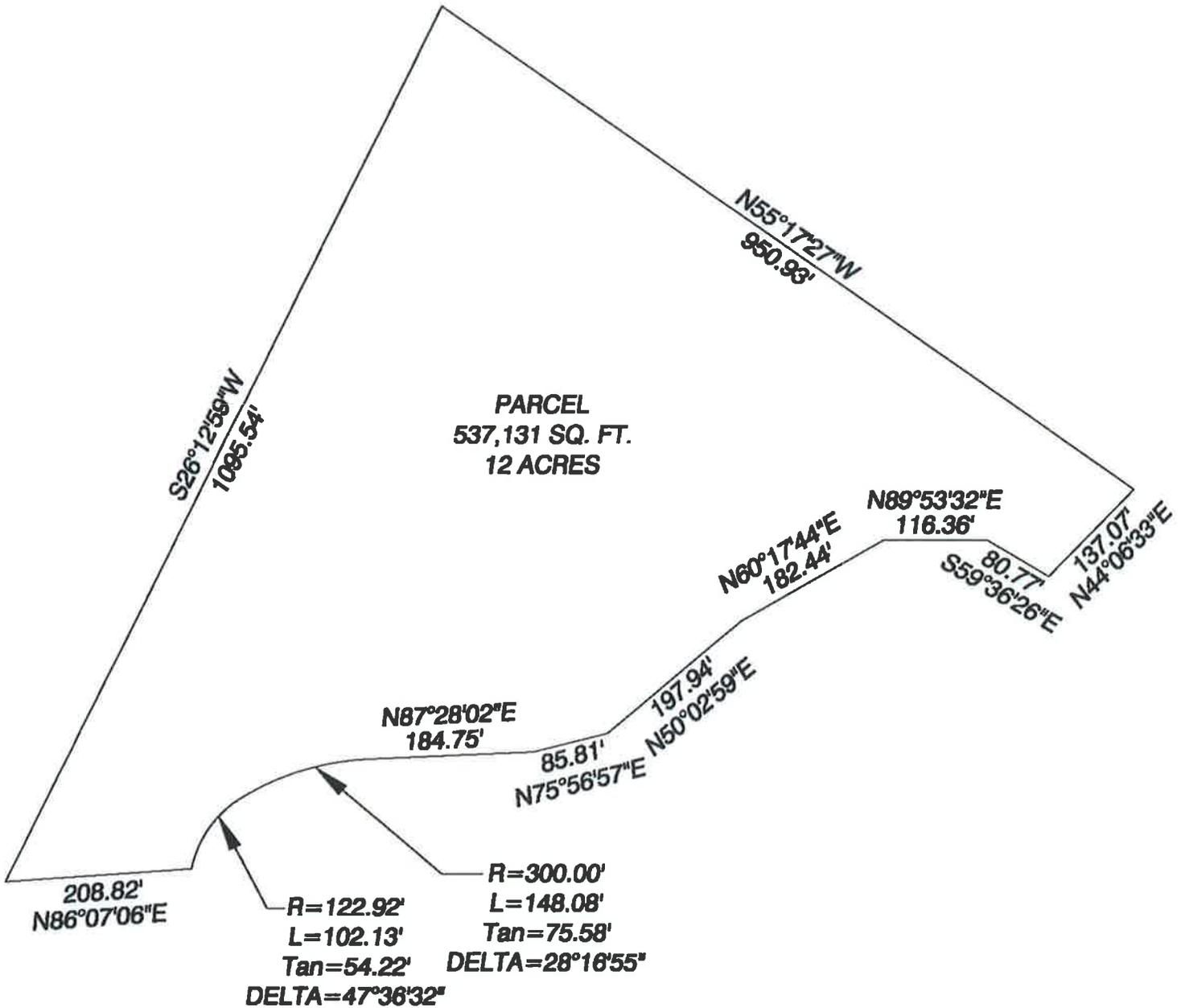
Exhibit A

VILLAGE OF KEY BISCAYNE





KEY BISCAIYNE PARCEL



MIAMI DAILY BUSINESS REVIEW

Published Daily except Saturday, Sunday and
Legal Holidays
Miami, Miami-Dade County, Florida

STATE OF FLORIDA
COUNTY OF MIAMI-DADE:

Before the undersigned authority personally appeared M. ZALDIVAR, who on oath says that he or she is the LEGAL CLERK, Legal Notices of the Miami Daily Business Review f/k/a Miami Review, a daily (except Saturday, Sunday and Legal Holidays) newspaper, published at Miami in Miami-Dade County, Florida; that the attached copy of advertisement, being a Legal Advertisement of Notice in the matter of

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SEC 4-32 PROHIBITED WATER ACTIVITY

in the XXXX Court,
was published in said newspaper in the issues of

06/05/2014

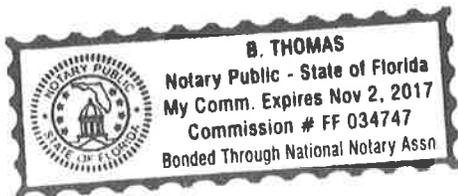
Affiant further says that the said Miami Daily Business Review is a newspaper published at Miami in said Miami-Dade County, Florida and that the said newspaper has heretofore been continuously published in said Miami-Dade County, Florida, each day (except Saturday, Sunday and Legal Holidays) and has been entered as second class mail matter at the post office in Miami in said Miami-Dade County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Sworn to and subscribed before me this

05 day of JUNE, A.D. 2014

(SEAL)

M. ZALDIVAR personally known to me



VILLAGE OF KEY BISCAZYNE

OFFICE OF THE VILLAGE CLERK PUBLIC NOTICE

Notice is hereby given that the following ordinance will be considered on Second Reading by the Village Council of the Village of Key Biscayne at a Special Council Meeting to be held on Tuesday, June 17, 2014 at 7:00 p.m., in the Council Chamber, located at 560 Crandon Boulevard, Key Biscayne, Florida:

AN ORDINANCE OF THE VILLAGE OF KEY BISCAZYNE, FLORIDA, AMENDING SECTION 4-32 "PROHIBITED WATER ACTIVITY" CREATING A MOTORIZED VESSEL EXCLUSION ZONE WHICH LIMITS THE MASHTA FLATS AREA, AS FURTHER DESCRIBED ON EXHIBIT "A," WITHIN THE VILLAGE'S MUNICIPAL BOUNDARIES TO NON-MOTORIZED VESSELS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

The proposed Ordinance may be inspected by the public at the Office of the Village Clerk. Interested parties may appear at the Public Hearing and be heard with respect to the proposed Ordinance. Any person wishing to address the Village Council on any item at this Public Hearing is asked to register with the Village Clerk prior to that item being heard.

In accordance with the Americans With Disabilities Act of 1990, all persons who are disabled and who need special accommodations to participate in this proceeding because of that disability should contact the Office of the Village Clerk, 88 West McIntyre Street, Suite 220, Key Biscayne, Florida 33149, telephone number (305) 365-5506, not later than two business days prior to such proceeding.

Should any person desire to appeal any decision of the Village Council with respect to any matter to be considered at this meeting, that person shall insure that a verbatim record of the proceedings is made including all testimony and evidence upon which any appeal may be based (F.S. 286.0105).

Comments of any interested party relative to this matter may be submitted in writing and or presented in person at the public hearing.

Conchita H. Alvarez, MMC
Village Clerk

6/5

14-4-238/2294352M